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Attorneys for Defendant Capital One Bank (USA), N.A.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

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ELLEN FENSTERER, an individual;	: Case No.: 1:20-cv-05558-RMB-KMW
on behalf of herself and all others	:
similarly situated,	: Motion Date: September 21, 2020
	:
Plaintiff,	: DEFENDANT CAPITAL ONE
	: BANK (USA), N.A.’S NOTICE OF
vs.	: MOTION TO DISMISS
	: PLAINTIFF’S FIRST AMENDED
CAPITAL ONE BANK (USA), N.A.,	: CLASS ACTION COMPLAINT
	: PURSUANT TO FED. R. CIV. P.
Defendant.	: <u>12(b)(1) AND (6)</u>
	:
	: ORAL ARGUMENT REQUESTED
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PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, the Declaration of Philip A. Goldstein, and the exhibit(s) annexed thereto, the Declaration of Brad Kalmar, and the exhibit(s) annexed thereto, and upon all prior pleadings and proceedings in this action, Defendant Capital One Bank (USA), N.A. (“Capital One”), in lieu of filing an Answer to Plaintiff’s First Amended Class Action Complaint, shall move this Court before the Honorable Renee Marie Bumb at the Mitchell H. Cohen Building & U.S. Courthouse, located at 4th & Cooper

Streets, Camden, New Jersey 08101, on September 21, 2020, or as soon thereafter as counsel may be heard, for an Order pursuant to Rule 12(b)(1) and (6) of the Federal Rules of Civil Procedure granting the motion of Capital One to dismiss the First Amended Class Action Complaint with prejudice, and for such other, further or different relief as the Court deems just and proper.

Dated: New York, New York
August 21, 2020

/s/ Philip A. Goldstein
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